SINGLE BENCH

CF1002

IN THE HIGH COURT OF CHHATTISGARH JUDICATURE AT BILASPUR

WRIT PETITION NO. 5129 /2006

PETITIONER : SHAILESH KUMAR AMBASTHA
S/o S.P. Ambastha ,Aged about 35 yrs
R/o Near Post Office Main Road
Bagicha Distt. Jashpur [C.G.]

P.R. No. 5153/06
Presented by Shri N. Murty Adv.
dated 14/9/06

VERSUS

RESPONDENTS : 1. STATE OF CHHATTISGARH
Through the Secretary ,
Department of School Education
D.K.S Bhawan Raipur [C.G.]

RE... COPY
14/9/06
A. G. BILASPUR

2. The Mission Director
State Project Office ,Rajiv Gandhi
Shiksha Mission , Raipur [C.G.]

3. The Chief Executive Officer Jila
Panchayat Ex- - Officio District
Project Administrator , Rajiv Gandhi
Shiksha Mission,Distt. Jashpur [C.G.]

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN NATURE Of MANDUMUS / CERTIORARI Etc. OR DIRECTION / ORDER IN THE LIKE NATURE

(28)

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.5129 OF 2006

Petitioner : Shailesh Kumar Ambastha

versus

Respondents : State of Chhattisgarh and others

Present : Mr. Neelkanth Malviya, counsel for the petitioner.
Mrs. Anju Ahuja, Deputy Government Advocate for respondents No.1 and 2.

ORDER
(Passed on 2nd of November, 2006)

According to the petitioner, the petitioner was appointed as Accountant on 18-9-1997 (Annexure P-5) on contract basis for a period of one year and was posted at Block Resource Centre, Tamnar. Thereafter, it appears that the petitioner has been transferred to various places. At the time when he was posted at Block Resource Centre, Bagicha, the impugned transfer order dated 14-6-2006 (Annexure P-1) was passed, whereby the petitioner was transferred from Block Resource Centre, Bagicha to Block Resource Centre, Duldula.

2. On perusal of the impugned transfer order, it appears that the petitioner, along with three other persons, has been transferred in public interest and due to administrative exigency. However, learned counsel for the petitioner submits that the transfer has been made on

the basis of certain complaints. Learned counsel for the petitioner further submits that the petitioner was appointed on contract basis, wherein no transfer is permitted. This submission of learned counsel for the petitioner is frivolous and misconceived as the impugned order itself indicates that the petitioner was working at Block Resource Centre, Bagicha from where he was transferred to Block Resource Centre, Duldula and the petitioner was initially appointed at Block Resource Centre, Tamnar on 18-9-1997 (Annexure P-5) for a period of one year. The petitioner is not in a position to state as to how the petitioner has continued till date, whether the petitioner was absorbed or regularized on the post.

3. Be that as it may, the impugned transfer order, even if it is made on the basis of certain complaints, comes within the purview of administrative exigency. It is well settled principle of law that transfer is an incident of service and it is for the employer to decide as to where a particular officer/employee be posted keeping in view public interest as well as administrative exigency. This Court has limited jurisdiction to interfere with the transfer matters and this Court can interfere only with the case of proved *mala fide*, non-competence of authority passing the transfer order and transfer order not being in conformity with the rules and regulations. None of the above grounds are available to the petitioner.

4. For the reasons aforestated and as a result, this petition is dismissed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gopal